**IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH**

**FAO No. 608 of 2010(O&M)**

**Date of Decision: September 8 , 2015.**

Rajasthan State Roadways Transport Corporation, Jaipur

...... APPELLANT (s)

**Versus**

Annu Bansal and others ...... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Anil Kumar Gahlawat, Advocate for the appellant.

Mr. Sanjay Vashisth, Advocate for respondents No.1 and 2.

Mr. Aditya Yadav, Advocate for Mr. Jai Singh Yadav, Advocate for respondent No.3.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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**LISA GILL, J.**

Rajasthan State Roadways Transport Corporation, Jaipur has preferred instant appeal impugning award dated 19.08.2009 passed by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as, the 'Tribunal').

Sole contention of learned counsel for the appellant is that quantum of compensation awarded to respondents-claimants is not justified in the facts and circumstances of the case. Income of the deceased has not been proved on record.

Facts as revealed in the claim petition are that, Manohar Bansal (deceased) was proceeding in his Maruti Zen car bearing registration No. DL-4CG-8048 on 13.02.1999 at 3.00 p.m. in connection with his business. Respondent No.4 – Archna @ Archna Jhanji was travelling with him. When they reached near Jaisinghpur Khera barrier, a Rajasthan Roadways bus bearing registration No. RJ-14P-8699 being driven in a rash and negligent manner by its driver, Radhey Shyam came at a very high speed and dashed against their Maruti car while proceeding on the wrong side of the road. Resultantly, Manohar Bansal received serious injuries to which he succumbed while he was being taken to the hospital at Kotputli. FIR No.30 dated 13.02.1999 under Sections 279/337/304A IPC was registered at Police Station Bawal against respondent No.3 – Radhey Shyam.

Claimants i.e., widow and minor daughter of Manohar Bansal preferred claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation to the tune of ₹80,00,000/- alongwith interest. Petition was contested by appellant-Corporation and driver of the offending bus. Respondent No.4 was proceeded against *ex parte*. Following issues were framed by the Tribunal:-

> "1. Whether the accident in question resulting into the death of Manohar Bansal s/o Man Singh took place on account of rash and negligent driving of Bus No. RJ-14P-8699 by its driver-respondent No.1?OPP
> 2. Whether the petitioners are entitled to compensation on account of the death of Manohar Bansal and if so, to what amount and from whom?OPP
> 3. Whether respondent No.2 is not liable to pay compensation on the grounds as alleged in the written statement?OPR-2
> 4. Relief."

Learned Tribunal on considering the facts and circumstances of the case as well as the evidence on record concluded the accident in which Manohar Bansal lost his life to be caused due to the rash and negligent driving of offending bus by its driver, Radhey Shyam. Age of the deceased was taken to be 40 years. His income was assessed at ₹6,600/- per month. On applying a deduction of 1/3rd, dependancy was calculated as ₹52,800/- per annum. Multiplier of 15 was applied and loss of dependancy was assessed at ₹7,92,000/- by the Tribunal. Total compensation of ₹8,12,000/- alongwith interest at the rate of 6% per annum was awarded to the claimants, detail of which is as under:-

| ***Sr.No.*** | ***Head under which amount awarded*** | ***Amount*** |
|---|---|---|
| 1. | Loss of Dependancy | ₹7,92,000/- |
| 2. | Loss of estate | ₹5,000/- |
| 3. | Funeral expenses | ₹5,000/- |
| 4. | Loss of consortium | ₹10,000/- |
| | Total | ₹8,12,000/- |

Learned counsel for the appellant argues that the income of deceased has not been correctly assessed. Once the Tribunal has itself observed that there is no documentary evidence on record to show actual income of the deceased, there is no basis for having his income assessed at ₹6,600/- per month. On this count, the quantum of compensation is challenged.

I have heard learned counsel for the parties and gone through the file.

Case of the claimants is that the deceased was earning ₹25,000/-

per month. He was an income tax payee holding PAN No.ABPPB9109D. PW1 Annu Bansal widow of Manohar Bansal has testified that her husband was a property dealer in Shahabad, near Kapashera near the airport at Delhi. No documentary evidence has been produced to prove that he was a property dealer nor his income tax returns etc. have been placed on record. However, a perusal of the claim petition as well as oral evidence of PW1 Annu Bansal (photocopies of which were produced during the course of arguments) clearly reveals that assessment of income of the deceased at ₹6,600/- per month does not call for any reduction as is urged by learned counsel for the appellant.

There is no evidence on record which would indicate the said finding returned by the Tribunal to be perverse or illegal. Quantum of compensation awarded by learned Tribunal, Rewari vide impugned award dated 19.08.2009 on various other counts as well, does not warrant any reduction.

No other argument has been raised.

Consequently being devoid of any merit, this appeal is dismissed.

**( LISA GILL )**
**JUDGE**

September 8 , 2015.
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